

Notice of Agency Rule-making Proposal

AGENCY: Department of Professional and Financial Regulation, Office of Licensing and Registration, Board for Licensure of Architects, Landscape Architects and Interior Designers

RULE TITLE OR SUBJECT: Repeal the existing rule chapters (Chapters 1 and 2) in their entirety and replace with the following:

- Chapter 10 – Definitions
- Chapter 11 – Advisory Rulings
- Chapter 12 – Licensure of Architects
- Chapter 13 – Licensure of Landscape Architects
- Chapter 14 – Certification of Interior Designers
- Chapter 15 – Application for Licensure
- Chapter 16 – License Denials and Disciplinary Procedure
- Chapter 17 – Grounds for Disciplinary Action
- Chapter 18 – Documentation
- Chapter 19 – Incorporation by Reference

PROPOSED RULE NUMBER: 98-P

(LEAVE BLANK - ASSIGNED BY SECRETARY OF STATE):

CONCISE SUMMARY (UNDERSTANDABLE BY AVERAGE CITIZEN): The proposed repeal and replacement: (a) removes obsolete provisions relating to the education and training required for licensure as an architect, landscape architect or interior designer; (b) removes unnecessary administrative provisions; (c) removes the board's authority to set licensing fees, in conformance with the governing statutes; and (d) does away with the requirement that the board interview applicants for licensure.

The new rules describe eligibility for licensure in the form of pathways to licensure. The pathways are sliding scales of education and experience that qualify an applicant to take the licensing examination. In general, the higher a candidate's level of educational achievement, the less experience is required for licensure and vice-versa. For architect and landscape architect candidates, the pathways to licensure focus on the kind and amount of work experience that can be recognized in lieu of a structured internship. Unlike the current rules, the pathways for architects and landscape architects explicitly recognize that candidates with little or no higher education but correspondingly greater work experience may be eligible for examination.

The new rules provide a 30-day time period in which to appeal the board's denial of an initial or renewal license, and expand the grounds on which disciplinary action may be taken against licensees. The new rules expressly permit technical submissions to be made in electronic form. The new rules require architects and landscape architects who integrate technical submissions prepared by others into their own work to retain for at least five years adequate and complete records demonstrating the nature and extent of the licensee's review of and integration of the predecessor work into the licensee's own technical submissions.

The new rules also require licensees to include the legend "Maine Licensed Architect", "Maine Licensed Landscape Architect" or "Maine Certified Interior Designer," as the case may be, on advertising, promotional materials, correspondence and business cards.

The statement of economic impact on small business required by 5 MRSA §8052(5-A) may be obtained from the agency contact person.

THIS RULE WILL ☐ WILL NOT ☒ HAVE A FISCAL IMPACT ON MUNICIPALITIES.

STATUTORY AUTHORITY: 5 MRSA §9001(4); 32 MRSA §§214(1), 220(1)(B), 220(2)(B), 220-B(2) and (3).

PUBLIC HEARING):

(IF ANY, GIVE DATE, TIME, LOCATION)

January 20, 2009, 10:00 a.m., Department of Professional and Financial Regulation, 122 Northern Avenue, Gardiner, Maine

DEADLINE FOR COMMENTS: February 19, 2009

AGENCY CONTACT PERSON: Carol J. Leighton, Board Administrator

AGENCY NAME: Office of Licensing and Registration

ADDRESS: 35 State House Station, Augusta, ME 04333

TELEPHONE: (207) 624-8520

EMAIL: carol.j.leighton@maine.gov

PROPOSED RULE AVAILABLE ON LINE AT: www.maine.gov/professionallicensing

Please approve bottom portion of this form and
assign appropriate MFASIS number.

APPROVED FOR PAYMENT _____ DATE: _____
Authorized signature

FUND	AGENCY	ORG	APP	JOB	OBJT	AMOUNT
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02 DEPARTMENT OF PROFESSIONAL AND FINANCIAL REGULATION

288 MAINE STATE BOARD OF LICENSURE OF ARCHITECTS, LANDSCAPE
ARCHITECTS AND INTERIOR DESIGNERS

Chapter 10 DEFINITIONS

Summary: This chapter defines specialized terms used throughout the board's rules.

1. Definitions

As used in the board's rules, unless the context otherwise indicates, the following words have the following meanings:

1. ARE. "ARE" means Architect Registration Examination.
2. CACB. "CACB" means Canadian Architectural Certification Board.
3. CIDA. "CIDA" means Council for Interior Design Accreditation.
4. CLARB. "CLARB" means Council of Landscape Architectural Registration Boards.
5. Direct supervision. "Direct supervision" means that degree of supervision by a person overseeing the work of another, where both perform their work in the same office, where personal contact is routine, and whereby the supervisor has both control over and detailed professional knowledge of the work prepared under his/her supervision.
6. Diversified experience in landscape architecture. "Diversified experience in landscape architecture" means documented involvement in site analysis, site programming, design, construction documentation, code research, cost estimation and field observation across a range of project scales, project types and project settings.
7. LARE. "LARE" means Landscape Architect Registration Examination.
8. Licensee. "Licensee" means an architect, landscape architect or certified interior designer who is licensed by the board.
9. NAAB. "NAAB" means National Architectural Accrediting Board.
10. NCARB. "NCARB" means National Council of Architectural Registration Boards.

11. NCIDQ. “NCIDQ” means National Council of Interior Design Qualification.
12. Prototypical building. “Prototypical building” means any commercial building or space within a commercial building that is intended to be constructed in multiple locations, and in fact then has been constructed in multiple locations, and which conveys an owner’s intended uniform business program, plan or image.
13. Prototypical building documents. “Prototypical building documents” means technical submissions for prototypical buildings. Prototypical building documents do not comprise a final, comprehensive set of design and construction documents because a prototypical building also requires adaptations for local conditions, including site conditions, and may require additional design as well.
14. Regionally-accredited institution. “Regionally-accredited institution” means an educational institution accredited by a regional institutional accrediting agency recognized by the U.S. Department of Education, or a Canadian educational institution accredited by a provincial ministry of education.

STATUTORY AUTHORITY: 5 MRSA §9001(4); 32 MRSA §§214(1), 220(1)(B), 220(2)(B), 220-B(2) and (3)

EFFECTIVE DATE:

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 ARCHITECTS AND INTERIOR DESIGNERS

Chapter 11 ADVISORY RULINGS

Summary: This chapter provides for the discretionary issuance of advisory rulings by the board.

1. Request and Consideration

Upon written request of any interested person, the board may issue an advisory ruling pursuant to 5 MRSA §9001 with respect to the applicability of any statute or rule it administers. Requests for advisory rulings must set forth in detail all facts pertinent to the question. The board may decline to issue an advisory ruling if the question is hypothetical, if there is insufficient information upon which to base a ruling, or for any other reason the board deems proper.

2. Response

The board shall acknowledge receipt of a request for an advisory ruling within 15 days after receipt. The board shall respond to every written request for an advisory ruling within 90 days of its receipt of the request, indicating whether or not a ruling will be issued by the board.

STATUTORY AUTHORITY: 5 MRSA §9001(4); 32 MRSA §§214(1), 220(1)(B), 220(2)(B), 220-B(2) and (3)

EFFECTIVE DATE:

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288 MAINE STATE BOARD OF LICENSURE OF ARCHITECTS, LANDSCAPE
ARCHITECTS AND INTERIOR DESIGNERSChapter 12 LICENSURE OF ARCHITECTS

Summary: This chapter sets forth the educational qualifications, experience and examination requirement necessary for licensure as an architect.

1. Overview

Qualifying education is described in Section 2 of this chapter. Qualifying experience is described in Section 3 of this chapter. An applicant qualifies for licensure by satisfying the education and experience requirements set forth in Section 4 of this chapter and by passing the examination described in Section 5 of this chapter. In addition, architects licensed in other jurisdictions may qualify for licensure without examination as described in Section 6 of this chapter.

2. Qualifying Education

1. Professional Degree in Architecture From an Accredited Program

- A. The applicant received a Bachelor of Architecture, Master of Architecture or equivalent or higher degree from an academic institution in the United States and the degree program was accredited by NAAB not later than 2 years after the degree was received;
- B. The applicant received a Bachelor of Architecture, Master of Architecture or equivalent or higher degree from an academic institution in Canada and the degree program was accredited by CACB not later than 2 years after the degree was received; or
- C. The applicant received a Bachelor of Architecture, Master of Architecture or equivalent or higher degree from a Canadian university that was certified by CACB.

2. Professional Degree in Architecture From a Non-Accredited Program

The applicant received a professional degree from an architectural degree program that was neither accredited nor certified as described in Section 2(1) of this chapter, but which satisfied the credit hour and area distribution requirements for coursework set forth in the NCARB Education Requirements as described in “NCARB Education Standard 2006 – 2007,” pp. 5 – 13 (NCARB July 2006).

3. Pre-Professional Degree in Architectural Studies

The applicant received a 4-year baccalaureate degree with a concentration in architecture that is a component of an NAAB-accredited, CACB-accredited or CACB-certified professional degree program, including but not limited to:

- Bachelor of Science in Architecture
- Bachelor of Science in Architectural Studies
- Bachelor of Science with a major in architecture
- Bachelor of Fine Arts in Architecture

4. Degree in Field Other Than Architecture

The applicant received a bachelor degree or higher from a regionally-accredited institution in a field other than architecture.

3. Qualifying Experience

1. NCARB Intern Development Program

The applicant completed the NCARB Intern Development Program of at least 3 years duration. Completion of the internship is deemed equivalent to 3 years of qualifying experience.

2. Canadian Internship

The applicant completed a 5600-hour Canadian provincial Internship in Architecture, as verified by the candidate's Canadian Experience Record Book. Completion of the internship is deemed equivalent to 3 years of qualifying experience.

3. Office Experience

The applicant acquired practical experience under the direct supervision of an experienced architect or architects engaged in the practice of architecture as a profession, and can demonstrate the minimum experience shown below in each of the following training categories and training areas, which are described more specifically in Appendix D to the "Intern Development Program Guidelines 2007 – 2008 (NCARB October 2007):"

Training Category/ Training Area	Minimum Percentage of Overall Experience
Design and Construction Documents.....	50%
Programming	
Site and Environmental Analysis	
Schematic Design	
Engineering Systems Coordination	
Building Cost Analysis	
Code Research	
Design Development	
Construction Documents	
Specifications and Materials Research	
Document Checking and Coordination	
Construction Contract Administration.....	10%
Bidding and Contract Negotiation	
Construction Phase – Office	
Construction Phase – Observation	
Management.....	5%
Project Management	
Office Management	

4. Education and Experience: Pathways to Licensure

An applicant shall demonstrate an acceptable combination of education and experience, or experience alone, as described in the 4 pathways to licensure contained in this section.

1. Professional Degree and Experience

The applicant received a professional degree in architecture from an accredited or non-accredited program and completed 3 years of qualifying experience.

2. Pre-Professional Degree and Experience

The applicant received a pre-professional degree in architectural studies and completed 9 years of qualifying experience.

3. Degree in Field Other Than Architecture and Experience

The applicant received a bachelor degree or higher in a field other than architecture and completed 11 years of qualifying experience.

4. Experience Alone

The applicant has no post-secondary baccalaureate or higher degree and completed 13 years of qualifying experience.

5. Examination

The current examination for architects is the Architect Registration Examination developed by NCARB. Unless examination is waived by law, the applicant must achieve a passing grade on each division of the ARE within any 5-year examination period. The time, place and manner of examination administration shall be as determined by NCARB. Passing grades shall be as determined by NCARB.

6. Licensure Without Examination (Reciprocity)

1. With NCARB Certificate

An architect license may be issued without examination to an applicant who is currently licensed in another state and holds a current and valid NCARB certificate.

2. Without NCARB Certificate

An architect license may be issued without examination to an applicant who is currently licensed in another state or foreign country provided that the board determines that the requirements for licensure in the other state or foreign country at the time of the applicant's initial licensure are equivalent to the requirements for licensure by examination contained in this chapter.

7. Display of License Number

1. Advertising and Promotional Materials

An architect shall display the legend "Maine Licensed Architect" in all advertising and promotional materials published by or on behalf of the named architect that relate to architectural services for Maine-located projects. Such materials include but are not limited to telephone directories, newspaper and magazine advertisements, and web sites.

2. Correspondence and Business Cards

An architect shall display the legend "Maine Licensed Architect" on the architect's business card and beneath the architect's name on all professional correspondence, proposals and solicitations signed by or on behalf of the named architect for Maine-located projects.

STATUTORY AUTHORITY: 5 MRSA §9001(4); 32 MRSA §§214(1), 220(1)(B), 220(2)(B), 220-B(2) and (3)

EFFECTIVE DATE:

02 DEPARTMENT OF PROFESSIONAL AND FINANCIAL REGULATION

288 MAINE STATE BOARD OF LICENSURE OF ARCHITECTS, LANDSCAPE
ARCHITECTS AND INTERIOR DESIGNERS

Chapter 13 LICENSURE OF LANDSCAPE ARCHITECTS

Summary: This chapter sets forth the educational qualifications, experience and examination requirement necessary for licensure as a landscape architect.

1. Overview

Qualifying education is described in Section 2 of this chapter. Qualifying experience is described in Section 3 of this chapter. An applicant qualifies for licensure by satisfying the education and experience requirements set forth in Section 4 of this chapter and by passing the examination described in Section 5 of this chapter. In addition, landscape architects licensed in other jurisdictions may qualify for licensure without examination as described in Section 6 of this chapter.

2. Qualifying Education

1. First Professional Degree in Landscape Architecture From an Accredited Program

The applicant received a Bachelor of Landscape Architecture, Bachelor of Science in Landscape Architecture, Master of Landscape Architecture or equivalent or higher degree from a program that was accredited by the Landscape Architectural Accreditation Board or the Canadian Society of Landscape Architects Accreditation Council. Any degree awarded less than two years prior to the accreditation of the program will be accepted as an accredited degree. Any degree awarded after a program has ceased to be accredited will not be accepted as an accredited degree.

2. Non-Accredited Landscape Architecture Degree Programs; Graduate Degrees in Other Design Disciplines

A. The applicant received a Bachelor of Landscape Architecture, Bachelor of Science in Landscape Architecture, Master of Landscape Architecture or equivalent or higher degree from a program that was not accredited as described in Section 2(1) of this chapter.

B. The applicant received:

- (1) A Bachelor of Architecture, Master of Architecture or equivalent or higher degree from an academic institution and the degree

program was accredited by NAAB not later than 2 years after the degree was received;

- (2) A Bachelor of Architecture, Master of Architecture or equivalent or higher degree from an academic institution in Canada and the degree program was accredited by CACB not later than 2 years after the degree was received; or
- (3) A Bachelor of Architecture, Master of Architecture or equivalent degree from a Canadian university that was certified by CACB.

C. The applicant received a degree in civil engineering from an academic institution accredited by ABET.

3. Other Bachelor Degree

The applicant received a bachelor degree or higher from a regionally-accredited institution in a field other than landscape architecture, architecture or civil engineering.

3. Qualifying Experience

Qualifying experience consists of:

- 1. Diversified experience in landscape architecture lawfully practicing as a principal;
- 2. Diversified experience in landscape architecture under the direct supervision of a landscape architect lawfully authorized to practice;
- 3. Diversified experience directly related to landscape architecture under the direct supervision of a civil engineer, licensed architect or credentialed planner;
- 4. 50% of the applicant's experience teaching in a LAAB-accredited program;
- 5. 50% of the applicant's experience in landscape architecture directly related to on-site construction, maintenance or installation procedures; or
- 6. 50% of the applicant's non-diversified experience in landscape architecture under the direct supervision of a landscape architect lawfully authorized to practice, civil engineer, licensed architect or urban or regional planner.

Qualifying experience is further subject to the evaluation criteria contained in "Standard of Eligibility for Council Certification," Section 3.3.3 – 3.3.7 (CLARB 1990).

4. Education and Experience: Pathways to Licensure

An applicant shall demonstrate an acceptable combination of education and experience as described in the 4 pathways to licensure contained in this section.

1. Landscape Architecture Degree From Accredited Program and Experience

The applicant received a first professional degree in landscape architecture from an accredited program and completed

- A. Two years of qualifying experience other than practice as a principal, of which at least 1 year consisted of diversified experience in landscape architecture under the direct supervision of a landscape architect lawfully authorized to practice; or
- B. Five years of diversified experience in landscape architecture lawfully practicing as a principal.

2. Landscape Architecture Degree From Non-Accredited Program/Other Graduate Design Degree and Experience

The applicant received a landscape architecture degree from a non-accredited program, or a graduate degree in another design discipline, and completed

- A. Three years of qualifying experience other than practice as a principal, of which at least 2 years consisted of diversified experience in landscape architecture under the direct supervision of a landscape architect lawfully authorized to practice; or
- B. One year of diversified experience in landscape architecture under the direct supervision of a landscape architect lawfully authorized to practice and 5 years of diversified experience in landscape architecture lawfully practicing as a principal.

3. Other Bachelor Degree and Experience

The applicant received a bachelor degree or higher from a regionally-accredited institution in a field other than landscape architecture, architecture or civil engineering and completed

- A. Five years of qualifying experience other than practice as a principal, of which at least 4 years consisted of diversified experience in landscape architecture under the direct supervision of a landscape architect lawfully authorized to practice; or
- B. Three years of diversified experience in landscape architecture under the direct supervision of a landscape architect lawfully authorized to practice

and 5 years of diversified experience in landscape architecture lawfully practicing as a principal.

4. Experience Alone

The applicant has no post-secondary baccalaureate or higher degree and has completed 12 years of qualifying experience other than practice as a principal, at least half of which consisted of diversified experience in landscape architecture under the direct supervision of a landscape architect lawfully authorized to practice.

5. Examination

The current examination for landscape architects is the Landscape Architecture Registration Examination developed by CLARB. Unless examination is waived by law, the applicant must achieve a passing grade on each division of the LARE within any 5-year examination period. The time, place and manner of examination administration shall be as determined by CLARB. Passing grades shall be as determined by CLARB.

6. Licensure Without Examination (Reciprocity)

1. With CLARB Certificate

An architect license may be issued without examination to an applicant who—

- A. Is currently licensed in another state;
- B. Holds a current and valid CLARB certificate; and
- C. Obtained the CLARB certificate through having passed an examination described in Section 5 of this chapter.

2. Without CLARB Certificate

A landscape architect license may be issued without examination to an applicant who is currently licensed in another state or foreign country provided that the board determines that the requirements for licensure in the other state or foreign country at the time of the applicant's initial licensure are equivalent to the requirements for licensure by examination contained in this chapter.

7. Display of Licensed Status

1. Advertising and Promotional Materials

A landscape architect shall display the legend "Maine Licensed Landscape Architect" in all advertising and promotional materials published by or on behalf of the named landscape architect that relate to landscape architectural services for

Maine-located projects. Such materials include but are not limited to telephone directories, newspaper and magazine advertisements, and web sites.

2. Correspondence and Business Cards

A landscape architect shall display the legend “Maine Licensed Landscape Architect” on the landscape architect’s business card and beneath the landscape architect’s name on all professional correspondence, proposals and solicitations signed by or on behalf of the named landscape architect for Maine-located projects.

STATUTORY AUTHORITY: 5 MRSA §9001(4); 32 MRSA §§214(1), 220(1)(B), 220(2)(B), 220-B(2) and (3)

EFFECTIVE DATE:

02 DEPARTMENT OF PROFESSIONAL AND FINANCIAL REGULATION

288 MAINE STATE BOARD OF LICENSURE OF ARCHITECTS, LANDSCAPE
ARCHITECTS AND INTERIOR DESIGNERS

Chapter 14 CERTIFICATION OF INTERIOR DESIGNERS

Summary: This chapter sets forth the educational qualifications, experience and examination requirement necessary for certification as an interior designer.

1. Introduction

An applicant qualifies for licensure by completing a combination of education and experience as set forth in Section 2 of this chapter and by passing the examination described in Section 3 of this chapter.

2. Education and Experience

1. 5 + 1

The applicant has graduated from a 5-year interior design program accredited by CIDA that was offered at a regionally-accredited institution and has completed at least 1 year of diversified and appropriate interior design experience; or

2. 4 + 2

The applicant has graduated from:

A. A 4-year interior design program accredited by CIDA that was offered at a regionally-accredited institution; or

B. A bachelor degree program in interior design that—

(1) Was not accredited by CIDA but included not less than 120 semester hours, of which at least 60 semester hours were interior design-related;

(2) Was substantially equivalent to a program accredited by CIDA; and

(3) Was offered at a regionally-accredited institution;

And has completed:

- C. At least 2 years of diversified and appropriate interior design experience;
or
- D. An NCIDQ Interior Design Experience Program of at least 2 years' duration.

3. Examination

The current examination for certified interior designers is the NCIDQ examination developed by NCIDQ. The time, place and manner of examination administration shall be as determined by NCIDQ. Passing grades shall be as determined by NCIDQ.

4. Display of Licensed Status

1. Advertising and Promotional Materials

A certified interior designer shall display the legend "Maine Certified Interior Designer" in all advertising and promotional materials published by or on behalf of the named certified interior designer that relate to interior design services for Maine-located projects. Such materials include but are not limited to telephone directories, newspaper and magazine advertisements, and web sites.

2. Correspondence and Business Cards

A certified interior designer shall display the legend "Maine Certified Interior Designer" on the certified interior designer's business card and beneath the certified interior designer's name on all professional correspondence, proposals and solicitations signed by or on behalf of the named certified interior designer for Maine-located projects.

STATUTORY AUTHORITY: 5 MRSA §9001(4); 32 MRSA §§214(1), 220(1)(B), 220(2)(B), 220-B(2) and (3)

EFFECTIVE DATE:

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288 MAINE STATE BOARD OF LICENSURE OF ARCHITECTS, LANDSCAPE
ARCHITECTS AND INTERIOR DESIGNERS

Chapter 15 APPLICATION FOR LICENSURE

Summary: This chapter sets forth the license application process and references the license fees established by the Office of Licensing and Registration.

1. Application for Licensure

1. Form of Application

An applicant for licensure as an architect, landscape architect or interior designer shall apply to the board on forms provided by the board. The applicant shall submit proof of education and experience in the form specified by the board and shall submit all other information required by the board.

2. Completeness

The board will not act on an application until the application is complete. Incomplete applications may be returned to the applicant. If an applicant does not remedy the deficiencies described by the board within the time designated by the board, the application may be denied.

3. Educational Equivalency: Architects

An architect applicant who graduated from a non-accredited program described in Chapter 12, Section 2(2) shall submit with the application, for review by the board, an evaluation report from the Education Evaluation Services for Architects stating that the applicant's professional education met the NCARB Education Requirements.

4. Foreign Applicants

- A. An architect applicant currently licensed in a foreign country shall furnish at the applicant's expense a transcript evaluation from Educational Evaluation Services for Architects, if requested by the board, and translations of any documents deemed necessary by the board to properly evaluate the architect's experience.
- B. A landscape architect applicant currently licensed in a foreign country shall furnish at the applicant's expense a transcript evaluation, if requested

by the board, and translations of any documents deemed necessary by the board to properly evaluate the landscape architect's experience.

2. Clearance to Take Examination [Architects and Landscape Architects Only]

A person applying for licensure as an architect or landscape architect by examination may register for examination only after the application has been preliminarily approved by the board. The license will be issued upon the applicant's timely achievement of passing scores on all divisions of the applicable examination, provided that the board may request an updated application after receiving proof of passing scores and may decline to issue a license in the event that the applicant is no longer eligible for licensure.

3. Fees

The applicant shall remit the application, examination and license fees required by Chapter 10, Section 4(4) of the rules of the Office of Licensing and Registration, entitled "Establishment of License Fees."

STATUTORY AUTHORITY: 5 MRSA §9001(4); 32 MRSA §§214(1), 220(1)(B), 220(2)(B), 220-B(2) and (3)

EFFECTIVE DATE:

02 DEPARTMENT OF PROFESSIONAL AND FINANCIAL REGULATION

288 MAINE STATE BOARD OF LICENSURE OF ARCHITECTS, LANDSCAPE
ARCHITECTS AND INTERIOR DESIGNERSChapter 16 LICENSE DENIALS AND DISCIPLINARY PROCEDURE

Summary: This chapter sets forth a licensee's right to appeal certain board actions and specifies the enforcement and disciplinary procedures used by the board.

1. Appeal of License Denial

An applicant or licensee may appeal a license denial to the board by filing a request for hearing with the board within 30 days of the applicant's or licensee's receipt of notice of the denial. An adjudicatory hearing will be scheduled upon receipt of a timely appeal. Non-timely appeals will be denied without hearing.

2. Disciplinary Procedure

The board will follow the procedures for investigating and processing complaints contained in the Administrative Complaint Procedure followed by the Department of Professional and Financial Regulation, Office of Licensing and Registration for the professional and occupational licensing boards and registration programs administered by OLR.

STATUTORY AUTHORITY: 5 MRSA §9001(4); 32 MRSA §§214(1), 220(1)(B), 220(2)(B), 220-B(2) and (3)

EFFECTIVE DATE:

02 DEPARTMENT OF PROFESSIONAL AND FINANCIAL REGULATION

288 MAINE STATE BOARD OF LICENSURE OF ARCHITECTS, LANDSCAPE
ARCHITECTS AND INTERIOR DESIGNERSChapter 17 GROUNDS FOR DISCIPLINARY ACTION

Summary: This chapter sets forth prohibited practices that may result in disciplinary action against a licensee, or denial or nonrenewal of a license.

1. Introduction

The board may take disciplinary action against a licensee, or may deny or refuse to renew a license, for any of the reasons described in this chapter, for any violation of the board's rules, or for any violation described in 10 MRSA §8003(5-A)(A).

2. Fraud, Deceit or Misrepresentation in Obtaining a License

The practice of fraud, deceit or misrepresentation in obtaining a license includes, but is not limited, to:

1. Falsification or misrepresentation of the education or experience of the applicant;
2. Falsification or misrepresentation of a recommendation or report offered or submitted to the board;
3. Cheating on a license examination;
4. Withholding or misrepresenting any information requested on an application, including any information regarding criminal or disciplinary action taken by any state against an applicant; or
5. Impersonating another applicant.

3. Fraud, Deceit or Misrepresentation in the Practice of Architecture, Landscape Architecture or Interior Design

The practice of fraud, deceit or misrepresentation in the practice of architecture, landscape architecture or interior design includes, but is not limited, to:

1. Assisting the application for licensure of an applicant known by the architect, landscape architect or interior designer to be unqualified for licensure with respect to education, training, experience or character;

2. Practicing or attempting to practice, or aiding another to practice, beyond the scope of the license held;
 3. Misrepresenting the type or status of license held or qualifications to practice;
 4. Committing or aiding another to commit fraud, deceit or corruption in billing or payment; or
 5. Impersonating another licensee.
4. Negligence in the Practice of Architecture, Landscape Architecture or Interior Design
- Negligence in the practice of architecture, landscape architecture or interior design includes, but is not limited, to:
1. Failure to act with reasonable diligence, care and competence;
 2. Failure to apply the technical knowledge or skill which is ordinarily applied by an architect, landscape architect or interior designer in Maine; or
 3. Failure to design a project that complies with all applicable federal, state and municipal building laws and regulations. While an architect, landscape architect or interior designer may rely on the advice of other professionals (e.g., attorneys and engineers), the licensee shall not knowingly design a project in violation of such laws and regulations once such advice has been obtained.
5. Incompetence in the Practice of Architecture, Landscape Architecture or Interior Design
- Incompetence in the practice or architecture, landscape architecture or interior design includes, but is not limited to:
1. Undertaking professional services that the architect, landscape architect or interior designer lacks the education, training, experience or skill to perform, unless the architect, landscape architect or interior designer associates with, consults or employs other professionals with the necessary qualifications or abilities.
6. Sealing of Technical Submissions Prepared in the Absence of Direct Knowledge/Involvement and Control of an Architect or Landscape Architect
- An architect or landscape architect may not seal technical submissions that were prepared in fact by another person unless:
1. Prototypical Building Documents
 - A. The technical submissions are prototypical building documents; and
 - B. The sealing architect or landscape architect has reviewed the work of the other person and has integrated such work into the licensee's own technical submissions; or

2. Non-Prototypical Building Documents

The sealing architect or landscape architect has:

- A. Familiarized him/herself with the client's goals through meetings, telephone calls or program documents *prior to* his/her further preparation of technical submissions;
- B.
 - (1) Coordinated preparation of the technical submissions;
 - (2) Had significant and controlling personal involvement in the technical submissions; or
 - (3) Integrated the work into the licensee's own technical submissions; and
- C. Thoroughly reviewed the technical submissions upon completion.

A review (or review and correction) of completed technical submissions by a licensee who has not complied with subparagraph (1), (2) or (3) above does not meet the requirements of this subsection.

This section does not apply to technical submissions prepared by an architect or landscape architect in practice with or previously employed by the same firm as the sealing architect or landscape architect, or where a former client of the architect or landscape architect who prepared technical submissions has made a bona fide decision to obtain further professional services from the sealing architect or landscape architect.

7. Conflict of Interest

Conflict of interest includes, but is not limited to:

- 1. Accepting compensation for professional services from more than one party on a project unless the circumstances are fully disclosed and agreed to in writing by all interested parties.
- 2. Failing to disclose in writing to a client or employer any business association or direct or indirect financial interest which may influence the licensee's judgment in connection with the licensee's performance of professional services, or which may create an appearance of impropriety. If such a business association or financial interest exists, the licensee shall fully disclose the nature of the business association or financial interest to the licensee's client or employer in writing. If the client or employer objects, the licensee shall either terminate the business association or financial interest or offer to give up the commission or employment. Notwithstanding the foregoing, violations of Section 7(3) of this chapter cannot be cured by disclosure.

3. Soliciting or accepting compensation from material or equipment suppliers in return for specifying or endorsing their products.
8. Disclosure Obligations of Architects, Landscape Architects and Interior Designers

Architects, landscape architects and interior designers have the following disclosure obligations:

1. An architect, landscape architect or interior designer making public statements on architectural or design questions shall disclose when the licensee is being compensated for making such statements and identify the client on whose behalf the statements were made;
 2. An architect, landscape architect or interior designer shall accurately represent to a prospective or existing client or employer the licensee's qualifications and the scope of the licensee's responsibility in connection with work for which the licensee is taking credit;
 3. If, in the course of a licensee's work on a project, the licensee becomes aware of a decision taken by the licensee's employer or client against the licensee's advice, which decision violates applicable federal, state or municipal laws and regulations, and which decision will, in the licensee's judgment, materially and adversely affect the safety to the public of the finished project, the licensee shall:
 - A. Report the decision to the local building inspector or other public official charged with enforcement of the applicable federal, state or municipal laws or regulations;
 - B. Refuse to consent to the decision; and
 - C. In circumstances where the licensee reasonably believes that other such decisions will be taken notwithstanding the licensee's objection, terminate the licensee's services with respect to the project unless the matter is resolved by other means. A termination made pursuant to this subsection shall not be grounds for disciplinary action against the licensee.
 9. Misconduct
- Misconduct of an architect, landscape architect or interior designer includes, but is not limited to:
1. Failure to comply with the licensing or certification laws or rules governing the licensee's professional practice in any United States jurisdiction; and
 2. Offering or giving any gifts, other than gifts of nominal value (e.g., reasonable entertainment or hospitality) with the intent of influencing the judgment of an existing or prospective client in connection with a project in which the licensee is interested.

STATUTORY AUTHORITY: 5 MRSA §9001(4); 32 MRSA §§214(1), 220(1)(B), 220(2)(B), 220-B(2) and (3)

EFFECTIVE DATE:

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Chapter 18 DOCUMENTATION

Summary: This chapter authorizes reliance on technical submissions in electronic form and requires licensees to retain certain records for a period of five years.

1. Technical Submissions in Electronic Form

An architect, landscape architect or interior designer may rely upon technical submissions received in electronic form (e.g., portable document format), including the seals reproduced thereon, to the same extent as their physical counterparts.

2. Retention of Technical Submissions Prepared by Others

An architect or landscape architect who integrates technical submissions prepared by another person into his or her own work pursuant to Chapter 17, Section 6 of the board's rules shall retain and make available to the board upon request for at least 5 years following such signing and sealing, adequate and complete records demonstrating the nature and extent of the licensee's review of and integration of the work of such other person into his or her own technical submissions.

STATUTORY AUTHORITY: 5 MRSA §9001(4); 32 MRSA §§214(1), 220(1)(B), 220(2)(B), 220-B(2) and (3)

EFFECTIVE DATE:

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Chapter 19 INCORPORATION BY REFERENCE

Summary: This chapter incorporates various external codes into the board's rules by reference.

1. Incorporation by Reference

The board hereby incorporates the following codes and standards into the board's rules by reference:

1. CLARB

- A. Standards of Eligibility for Council Certification (CLARB September 1990)

This publication is available from the Council of
Landscape Architectural Registration Boards, 3949
Pender Drive, Suite 120, Fairfax, VA 22030.

2. NCARB

- A. Intern Development Program Guidelines 2007-2008 (NCARB October 2007)

- B. NCARB Education Standard 2006 – 2007, pp. 5-13 (NCARB July 2006)

These publications are available from the National
Council of Architectural Registration Boards, 1801
K Street, NW, Suite 1100-K, Washington, DC
20006

STATUTORY AUTHORITY: 5 MRSA §9001(4); 32 MRSA §§214(1), 220(1)(B), 220(2)(B),
220-B(2) and (3)

EFFECTIVE DATE: